

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

PAULINE NASH

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:08CV107-P-S

**KEITH RUSSELL, RICHARD A.
LINDLEY, ROSE CREEK FUNDING,
INC., SAXON MORTGAGE, INC., SAXON
MORTGAGE SERVICES, INC., AND
DEUTSCHE BANK TRUST
CORPORATION d/b/a DEUTSCHE BANK
TRUST COMPANY AMERICAS**

DEFENDANTS

ORDER

This cause is before the Court on defendant Linley's Motion to Dismiss for Insufficiency of Process and Insufficiency of Service of Process [24]. The Court, having reviewed the motion, the response, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

That the motion is not well-taken and should be denied. Although defendant was not served with process within the period specified in F.R.C.P. 4(m), the Court finds that the plaintiff articulated a sufficient basis for an extension of time to effect service.¹ Accordingly, the Court finds

¹ The Court need not determine that these circumstances constitute good cause. The Comments to the 1993 Amendments to Rule 4 provide:

Subdivision (m). This subdivision retains much of the language of the present subdivision (j). The new subdivision explicitly provides that the court may allow additional time if there is good cause for the plaintiff's failure to effect service in the prescribed 120 days, and authorizes the court to relieve a plaintiff of the consequences of an application of this subdivision even if there is no good cause shown.

that the circumstances described by plaintiff warrant a seventy-five (75) day extension of time up to and including January 28, 2009 in which to obtain proper service on the named defendant. Because plaintiff served defendant Linley within that period, the Court deems the service of process sufficient

IT IS, THEREFORE, ORDERED AND ADJUDGED that defendant Linley's Motion to Dismiss for Insufficiency of Process and Insufficiency of Service of Process [24] is not well-taken and should be, and hereby is, DENIED.

SO ORDERED, this the 28th day of August, 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE